

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**DIANA D. THOMAS
ADC #716766**

PLAINTIFF

v.

Case No. 4:20-cv-00151 KGB-JJV

BILLY W. INMAN, *et al.*

DEFENDANTS

ORDER

Before the Court are Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 25). Plaintiff Diana Thomas filed an objection to the Proposed Findings and Recommendations (Dkt. No. 26). After careful consideration of the Proposed Findings and Recommendations, Ms. Thomas' objections, and a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 25).

Ms. Thomas, in her objection, "ask[s] to be excused from[] the mandatory exhaustion" and asks "to be able to re-file [her] grievance and start over" (Dkt. No. 26, at 1). Having reviewed the record evidence before the Court, the Court concludes that defendants Deputy Warden Billy W. Inman and Lieutenant Joyce M. Johnson's motion for summary judgement should be granted and that Ms. Thomas' complaint must be dismissed without prejudice for failure to exhaust her administrative remedies at the time she filed suit (Dkt. No. 25). Accordingly, the Court adopts the Proposed Findings and Recommendations as its findings in all respects (*Id.*).

It is therefore ordered that:

1. The Court grants Deputy Warden Inman and Lieutenant Johnson's motion for summary judgment (Dkt. No. 21).

2. The Court dismisses without prejudice for failure to exhaust administrative remedies Ms. Thomas' claims against Deputy Warden Inman and Lieutenant Johnson.

3. The Court denies as moot Ms. Thomas' motion to the extent that she seeks discovery (Dkt. No. 24, at 21).

4. The Court dismisses without prejudice Ms. Thomas' complaint (Dkt. No. 2).

5. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this order would not be taken in good faith.

It is so ordered this 19th day of January, 2021.



Kristine G. Baker
United States District Judge